

Amendment No. 2 to SB0350

Bell
Signature of Sponsor

AMEND Senate Bill No. 350*

House Bill No. 506

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 6, is amended by adding the following as a new part:

8-6-501. This part is known and may be cited as the "Defense of Liberty Act."

8-6-502.

(a) There is created within the legislative branch of state government the office of the solicitor general. Except as otherwise provided in subsection (b), the solicitor general shall be elected by a joint vote of both houses of the general assembly and shall hold office for a term of four (4) years and until a successor is elected and qualified.

(b) The general assembly shall elect the solicitor general during the first thirty (30) days of the second regular session of the 112th general assembly, and within the first thirty (30) days of the first regular session every even-numbered general assembly thereafter.

(c) The solicitor general may be removed from office upon concurrence of two-thirds (2/3) of the members of the house of representatives and two-thirds (2/3) of the members of the senate.

(d) If a vacancy occurs in the office of solicitor general, a replacement shall be elected by a joint vote of both houses of the general assembly to fill the unexpired term of the solicitor general. If the general assembly is not in session when the vacancy occurs, then an interim solicitor general shall be appointed jointly by the speaker of the

senate and the speaker of the house of representatives and shall serve until the general assembly reconvenes and elects a solicitor general to fill the unexpired term.

(e) The solicitor general shall:

(1) Be a graduate of an accredited law school and be licensed to practice law in this state;

(2) Have such training or practical experience as may be considered necessary by the general assembly to perform the duties of the office;

(3) Be at least thirty-five (35) years of age; and

(4) Devote full time to the duties of the office and may not engage in the private practice of law.

8-6-503.

(a) The solicitor general, or assistants acting at the solicitor general's discretion, shall represent and defend the interests general assembly as described in this section. When the solicitor general's statutory duties conflict with the attorney general and reporter's statutory duties, the attorney general and reporter shall continue to represent the state. However, the solicitor general may join or brief any litigation on behalf of the general assembly, as provided in this section. If the attorney general and reporter chooses not to defend the constitutionality and validity of any legislation, the solicitor general may represent the interests of the state.

(b) The solicitor general has the following duties:

(1) To defend the interests of the state on behalf of the general assembly in state or federal court and administrative proceedings when the resolution of the proceedings may negatively impact the state, including proceedings in which the state may not be a party in interest but the outcome of the proceedings could result in a modification of state laws, including but not limited to, application, interpretation, and construction of state laws;

(2) To monitor litigation in all state or federal courts for the purposes of determining if the general assembly should join or brief any litigation proceeding that could negatively impact the state, and to report on the litigation in the state or federal courts to the general assembly from time to time;

(3) To defend, on behalf of the general assembly, the constitutionality and validity of all laws of statewide applicability in state or federal court, except in those instances where the solicitor general is of the opinion that such law is not constitutional, in which event the solicitor general shall so certify to the speaker of each house of the general assembly;

(4) To notify the director of the office of legal services, or the director's designee, and the director of the fiscal review committee of any lawsuit filed in state or federal court in which the state is a named party and the solicitor general or assistants are representing the state on behalf of the general assembly;

(5) To file any amicus brief in any state or federal court on behalf of the general assembly in which a proceeding is pending, the outcome of which could impact the state; and

(6) To give the members of the general assembly, when called upon, written legal opinions on all matters submitted by them in the discharge of their official duties. Written opinions issued pursuant hereto shall be made available for public inspection. It is the legislative intent that when a request for a written legal opinion is from a member of the general assembly and concerns pending legislation, such request shall be replied to as expeditiously as possible.

8-6-504.

(a) There is created the office of solicitor general, of which the solicitor general shall be the executive head, and who, with assistants, shall constitute such department within the legislative branch of state government. The department shall maintain offices in Nashville, which shall be furnished and provided by the state.

(b) The solicitor general shall receive a salary set by the speaker of the house of representatives and the speaker of the senate, payable in equal monthly installments out of the treasury of the state upon the warrants of the commissioner of finance and administration.

(c) The solicitor general shall employ and, within budgetary limitations, fix the salaries of the solicitor general's assistants and other employees. The solicitor general and the solicitor general's assistants and employees shall be reimbursed for official travel expenses in accordance with the official executive policies governing travel at state expense.

8-6-505.

All testimony, books, documents, or other writings, records, or tangible objects obtained by the solicitor general pursuant to this part shall be confidential and shall not be publicly divulged by the office of the solicitor general except in the discharge of the duties of the office or in federal legal proceedings in which the state is a party.

8-6-506.

The solicitor general shall, on behalf of the general assembly, attend in person, or by assistant, and prosecute or defend, as the case may be, any and all suits, civil or criminal, in the supreme court of the United States, in the United States court of appeals for the judicial circuit of the United States comprising the state of Tennessee, or in any of the district courts of the United States held in the state of Tennessee, in which suit or suits the state may be a party, or in which the state has or may have interests of a pecuniary nature.

SECTION 2. Tennessee Code Annotated, Section 3-7-109(a), is amended by deleting the language "attorney general and reporter pursuant to § 8-6-109(b)(11)" and substituting instead the language "attorney general and reporter, pursuant to § 8-6-109(b)(11), or the solicitor general, pursuant to § 8-6-503(b)(4),".

SECTION 3. Tennessee Code Annotated, Section 3-12-108, is amended by deleting the language "attorney general and reporter pursuant to § 8-6-109(d)" and substituting instead the language "attorney general and reporter, pursuant to § 8-6-109(d), or the solicitor general, pursuant to § 8-6-503(b)(4),".

SECTION 4. Tennessee Code Annotated, Section 3-12-108, is amended by deleting the language "join with the attorney general and reporter" and substituting "join with the attorney general and reporter or solicitor general".

SECTION 5. Tennessee Code Annotated, Section 8-6-301, is amended by deleting subsection (c) and substituting:

(c) Legal services provided by the office of legal services for the general assembly, under title 3, chapter 12, or the office of the solicitor general, under part 5 of this chapter, and attorneys employed by such offices are exempt from this section. The attorney general and reporter shall not represent such offices before the general assembly or any committee thereof, nor shall direct or supervise such offices or attorneys employed by such offices.

SECTION 6. This act takes effect January 4, 2022, the public welfare requiring it.